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Twenty-eighth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999). Since June 2006 the frequency of reports on compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals, or their remains, has been reduced from every four months to every six months (see S/2006/468 and S/2006/469). My reports under paragraph 14 of Security Council resolution 1284 (1999) now cover both the issue of missing Kuwaiti and third-country nationals and the issue of missing Kuwaiti property, including national archives. My twenty-seventh report (S/2008/761) was submitted in December 2008. The present report covers developments from April to October 2009.

2. Pursuant to the request of the Security Council contained in a letter dated 26 March 2008 (S/2008/206), on 8 April 2009 I submitted a comprehensive report (S/2009/190) which contained a proposal to introduce a confidence- and cooperation-building period between Iraq and Kuwait that would last until June 2010, in order to further encourage the parties to achieve visible and significant progress and to strengthen their practical cooperation. On 16 April, the members of the Security Council supported the proposal for a confidence- and cooperation-building period and joined me in stressing the need for all parties to translate political statements of goodwill into concrete actions to speed up progress during the coming months to resolve outstanding issues, which would further strengthen existing friendly relations between Iraq and Kuwait (press statement, SC/9637-IK/602).

II. Background

3. During the period under review, the Cooperation Council for the Arab States of the Gulf, the League of Arab States (LAS) and the Organization of the Islamic Conference (OIC) kept the issues referred to in the present report on their respective agendas.

4. At its 110th session, the Ministerial Council of the Gulf Cooperation Council, meeting in Jeddah, Saudi Arabia, on 1 March 2009, urged the United Nations and other concerned parties to continue their laudable efforts aimed at resolving the

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issues of the return of the Kuwaiti national archives, Kuwaiti missing persons and prisoners of war and other missing third-country nationals. At its nineteenth session, held in Muscat on 29 April 2009, the Gulf Cooperation Council-European Union Joint Council expressed its support for the efforts of the High-level Coordinator aimed at returning Kuwaitis and nationals of other countries, or their remains, and Kuwaiti property, including the archives.

5. At its ministerial-level meeting held on 9 September 2009 in Cairo, the LAS Council renewed its condemnation of the grave human rights violations that took place during the occupation of Kuwait and the obfuscation of the facts relating to the prisoners and missing persons from Kuwait and other States, the mortal remains of many of whom were discovered in mass graves. The Council expressed its profound sympathy for the families of those victims whose remains had been found and concern for the suffering of the families of those whose whereabouts continued to be unknown. The Council commended the cooperative attitude of the Government of Iraq and its efforts towards uncovering the fate of all those Kuwaiti and other missing persons and prisoners.

6. In its final communiqué, the annual coordination meeting of Ministers for Foreign Affairs of OIC member States, held at United Nations Headquarters on 25 September 2009, condemned the massive violations of human rights and the killing of Iraqis, Kuwaitis and the citizens of third countries by the former Iraqi regime, in contravention of international law and international humanitarian law, and welcomed all measures taken by the Government of Iraq to prosecute the criminals.

7. The facts relevant to the mandate of the Coordinator were outlined in section II.C of my report (S/2009/385) pursuant to paragraph 5 of Security Council resolution 1859 (2008).

III. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains

8. On 21 September 2009, I discussed in New York the issue of Kuwaiti missing persons and property with Sheikh Naser Al-Mohammad Al-Ahmad Al-Sabah, Prime Minister of Kuwait, who emphasized the need to undertake concrete steps towards the implementation of the mandate outlined in paragraph 14 of Security Council resolution 1284 (1999) and welcomed the role played by Ambassador Gennady Tarasov, the High-level Coordinator.

9. Throughout the reporting period, the Coordinator focused his efforts on encouraging the intensification of the search for the remains of missing Kuwaiti and third-country nationals and property in the framework of the confidence- and cooperation-building process between Iraq and Kuwait supported by the Security Council. To that end, he maintained regular contacts with Iraq and Kuwait and with other members of the Tripartite Commission chaired by the International Committee of the Red Cross (ICRC).

10. The Coordinator visited Kuwait from 30 May to 3 June to discuss ways and means to ensure the success of the confidence- and cooperation-building period. He was received by the First Deputy Minister for Foreign Affairs, Khaled Al-Jarallah, and met with the Chairman and members of the Kuwaiti National Committee for

Missing Persons and Prisoner of War Affairs. He also met with the Iraqi delegation to the Technical Subcommittee of the Tripartite Commission, which was meeting in Kuwait at that time. The Kuwaiti and Iraqi representatives stressed their intention to accelerate practical steps in order to achieve progress.

11. On 16 July 2009, the Permanent Representative of Iraq to the United Nations addressed a letter to the President of the Security Council informing him that the Government of Iraq had invited Ibrahim Al-Shahin, Chairman of the Kuwaiti National Committee for Missing Persons and his working group to visit Iraq to discuss possible means for reinforcing cooperation on that issue (see S/2009/370). The reply, addressed to Tariq Najm Abdullah, Director of the Office of the Prime Minister of Iraq, was contained in a letter dated 4 August 2009 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/2009/405).

12. Continuing his contacts with the parties, the Coordinator visited Kuwait from 4 to 7 October 2009. He was received by the Prime Minister of Kuwait, Sheikh Naser Al-Mohammad Al-Ahmad Al-Sabah, who stressed the importance of clarifying the fate of missing Kuwaiti nationals, which continued to be a source of anguish for many families in his country. He expressed his appreciation for the role played by the United Nations and spoke in favour of extending the mandate of the Coordinator for another year. The Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Mohammad Al-Sabah Al-Salem Al-Sabah, underlined the humanitarian nature of the issue and expressed the hope that it would soon be resolved. Kuwaiti officials were of the opinion that the mandate had to be carried out until its objectives were attained and that it should not be influenced by political considerations.

13. While in Kuwait, Ambassador Tarasov met with the Chairman and members of the National Committee for Missing Persons, who briefed him on the outcome of the sixty-second session of the Technical Subcommittee, held in Kuwait on 6 October. The session was chaired by ICRC and attended by representatives of Iraq, Kuwait, Saudi Arabia, the United Kingdom of Great Britain and Northern Ireland, France and the United States of America. The members of the National Committee for Missing Persons welcomed the Iraqi delegation's presentation of a report on the specific measures already taken and yet to be taken by the Iraqi side with a view to finding and returning mortal remains of the missing persons and noted an improved atmosphere since the preceding Subcommittee session. The Coordinator was informed that the delegation of Iraq had presented its plan of action, indicating the reconnaissance activities by Iraqi teams at the burial sites in the provinces of Karbala, Anbar, Baghdad (Salman Pak area), Samawah and Nasiriyah and the expected timeline for their completion by November 2009. It is envisaged that a joint Kuwaiti-Iraqi team will be formed to undertake exhumation should mortal remains of Kuwaiti and third-country nationals be found at these locations.

14. Subsequently, the Coordinator met with the head and members of the Iraqi delegation to the Subcommittee session, who shared with him the above-mentioned plan of action (see annex I). They stressed the determination of Iraq to continue its efforts in the search for missing Kuwaiti and third-country nationals. The Iraqi delegation also showed the Coordinator a newspaper published in Iraq on 16 August which contained photographs of Kuwaiti and third-country missing persons and

asked Iraqi citizens who might have any information about their whereabouts or gravesites to notify the authorities.

15. On 5 October, the Permanent Representative of Iraq to the United Nations, upon instructions from his Government, forwarded to the Coordinator a letter by the head of the legal department of the Iraqi Foreign Ministry which outlined steps taken by Iraq since April 2009 to clarify the fate of missing Kuwaiti and third-country nationals and to return Kuwaiti property. Those activities included, inter alia, visits by Iraqi technical teams to the sites that, according to the data received from Kuwait, were likely to contain the remains of Kuwaiti nationals, marking those sites in preparation for exhumation and the continuing work with witnesses (see annex II).

16. On 7 October the Permanent Representative of Kuwait to the United Nations forwarded to the Coordinator a letter from the Chairman of the National Committee for Missing Persons containing an assessment of current efforts with regard to the search for Kuwaiti and third-country nationals and his views on further steps that needed to be taken by Iraq to achieve tangible progress on the ground. The letter also underscored the importance of the continued role of the United Nations (see annex III).

17. The Tripartite Commission and its Technical Subcommittee remain the primary mechanism for dealing with the issue of missing Kuwaiti and third-country nationals. I am grateful to ICRC for its continued endeavours in that regard.

18. The project by the United Nations Assistance Mission for Iraq and the United Nations Office for Project Services to build the capacity of the Ministry of Human Rights of Iraq for mass grave excavation and identification of missing persons (S/2009/393, para. 10, S/2009/284, para. 17, and S/2008/761, para. 11) has, as at 1 October 2009, resulted in the training of 22 Iraqi officials from the Ministry of Human Rights and the Medical Legal Institute on subjects such as forensics, forensic anthropology and pathology, digital surveys and database management. It is envisaged that the second stage of the project will take place at actual mass grave sites and will include excavation, anthropological examination and data recording. One of these sites is believed to contain the remains of Kuwaiti missing persons.

19. In another development, on 2 August the Government of the United States announced that the remains of the missing American serviceman, Captain Michael Scott Speicher, had been found in Iraq and positively identified. I would like to offer my sincere condolences to the family and friends of Captain Speicher.

IV. Recent activities with regard to the return of Kuwaiti property

20. In spite of my numerous and insistent calls, the Kuwaiti national archives have not been found and no credible information about their whereabouts has emerged. In all of his contacts, the Coordinator has consistently stressed the need to intensify the search for the archives.

21. While in Kuwait, the Coordinator discussed that subject in detail with the Director of the Department of International Organizations of the Ministry of Foreign Affairs, Mansour Al-Otaibi. The latter emphasized the historical value of the

Kuwaiti national archives, which included documents belonging to the Amiri Diwan, the Office of the Prime Minister and the Ministry of Foreign Affairs. The Coordinator was told that Kuwait would welcome the preparation by Iraq of a specific plan of action to demonstrate that a concerted effort to investigate the fate of the archives was under way.

22. Iraq has continued to return items seized by the former Iraqi regime during its occupation of Kuwait. On 24 June, Iraq handed over to Kuwait silver coins, traveller's cheques, Kuwaiti postage stamps and old-issue bank notes belonging to the Central Bank of Kuwait (see S/2009/350).

V. Observations

23. I welcome the fact that the first six months of the confidence- and cooperation-building period have brought about initial indications of movement on the issue of missing Kuwaiti and third-country nationals. I commend the concrete efforts undertaken by Iraq to meet its responsibilities under paragraph 14 of Security Council resolution 1284 (1999). I appreciate Kuwait's positive and supportive attitude.

24. Progress remains fragile, however. The main task of discovering and identifying the victims and, finally, closing their files lies ahead. This objective can be achieved only through increased cooperation between the two countries within the framework of the Tripartite Commission, with the continued support of the international community and the Security Council.

25. The attainment of practical results on the ground is a matter of primary importance. I call on Iraq and Kuwait to redouble their efforts in the coming months to achieve visible and significant progress in the search for missing persons and property, including archives. This will not only help to resolve the long-standing humanitarian issue but also increase mutual trust and confidence, thus contributing to the resolution of other outstanding problems between the two countries, strengthening their good-neighbourly relations and enhancing regional stability and cooperation.

26. I recommend that the Security Council extend the financing of the Coordinator's mandate until June 2010 in order to achieve its objectives and promote the process of confidence- and cooperation-building between Iraq and Kuwait.

Annex I

Plan of action submitted by Iraq to the sixty-second session of the Technical Subcommittee, held on 6 October 2009 in Kuwait City

[Original: Arabic]

Name of burial ground	*Estimated cost*	*Estimated period for completion*
Burial sites in Karbala Governorate	6 million dinars	14 days' work during the period from 1 to 14 October 2009
Burial sites in Anbar Governorate	3 million dinars	6 days' work during the period from 15 to 20 October 2009
Burial sites in Baghdad Governorate, Al-Mada'in area	2.5 million dinars	4 days' work during the period from 25 to 28 October 2009
Burial sites in Samawah Governorate	3 million dinars	6 days' work during the period from 1 to 6 November 2009
Burial sites in Nasiriyah Governorate	5 million dinars	10 days' work during the period from 7 to 17 November 2009

Notes:

[Original: English]

The same team currently in Karbala III is appointed to carry out the reconnaissance mission to all sites listed above. The mission in Karbala III is currently ongoing; for two weeks after that, it will work on the other sites, one after the other.

[Original: Arabic]

Once the searches mentioned in the plan above have been completed and it has been ascertained whether there are any remains of Kuwaiti missing persons at those sites, then, if any do exist, a joint committee will be formed between the Iraqi and Kuwaiti sides to start the operation of removing the remains, as indicated in articles 11-9 of the minutes of the sixtieth session of the Technical Subcommittee, held in Kuwait City on 1 June 2009.

Annex II

Letter dated 5 October 2009 from the Permanent Representative of Iraq to the United Nations addressed to the High-level Coordinator

Upon the instruction of my Government, I have the honour to attach herewith the steps taken by the Iraqi Government during the last six months on the issue of the repatriation or return of all Kuwaiti and third-country nationals, or their remains, and the return of all Kuwaiti property (see enclosure).

I have the further honour to request the inclusion of this information in the Secretary-General's report on the repatriation or return of all Kuwaiti and third-country nationals, or their remains, and the return of all Kuwaiti property.

(*Signed*) Hamid **Al Bayati**

Enclosure

Letter dated 5 October 2009 from the Iraqi Ministry of Foreign Affairs Legal Department addressed to the High-level Coordinator regarding steps taken by the Iraqi parties responsible for Kuwaiti missing persons and property

[Original: Arabic]

1. Gathering of data on and evidence of the supposed whereabouts of Kuwaiti missing persons: all the various security mechanisms were approached with a view to obtaining information on the issue, and pictures of alleged Kuwaiti missing persons were published in official newspapers.

2. When the most recent information on graves of Kuwaiti victims was received by Iraq on 9 June 2009, several task forces were formed by the relevant Iraqi authorities and dispatched to the governorates set forth below with a view to investigating burial sites:

(a) On 1 July 2009, a task force visited Karbala Governorate and viewed Karbala 3 burial site. On the basis of information received from Kuwait on 9 June 2009, it verified sites that had been presumed to be graves. The sites were marked out on the ground in preparation for exhumation;

(b) On 6 July 2009, a technical task force visited the Salman Pak site, verified the data on the supposed graves and marked them out on the ground. Information was sent to the mission for transmission to the Kuwaiti side;

(c) On 19 July 2009, on the basis of information provided by the Kuwaiti side, a task force went to Dhi Qar Governorate and, in preparation for exhumation by a technical team, verified on the ground data on supposed Kuwaiti missing persons;

(d) On 21 July 2009, a task force visited Anbar Governorate in order to view a supposed Kuwaiti missing persons burial site. On the basis of the information provided, the site was marked out on the ground in preparation for exhumation;

(e) On 26 July 2009, a team visited Muthanna Governorate in order to view two burial sites in Salman Province. On the basis of the information provided, the site was marked out on the ground in preparation for exhumation;

(f) Jahara witness: on 27 July 2009, an Iraqi witness was escorted to Kuwait. He had information on the supposed burial sites of Kuwaiti missing persons in the Jahara region. He indicated on the ground the location of the site, inside a Kuwaiti 80th Brigade camp.

3. Once the site-viewing and verification process had been completed, the relevant teams began exhumation. On 26 September 2009, the relevant task force went to Karbala Governorate in order to undertake the exhumation of 27 supposed sites. By 1 October 2009, 15 of those sites had been dug up. Work continues at those sites, with a view to finding the remains of Kuwaiti missing persons. In due course, teams will be sent to the other governorates in which the information indicates that remains of Kuwaiti missing persons exist.

4. The Ramadi witness: through the Iraqi embassy in Damascus, the Iraqi side contacted the aforementioned witness, who lives in Damascus. After discussions, he came to Baghdad on 17 September 2009 and undertook to bring samples of bone from a grave in Anbar Governorate that he believes belong to Kuwaiti victims. It is hoped that the site will be handed over to the Government of Iraq as soon as the origin of the bone has been established. Work is continuing and being followed up by the relevant Iraqi parties.

5. With respect to Kuwaiti property, the following measures have been taken:

(a) Iraq has handed over to the Kuwaiti side a total of 24 items that had been held by the Central Bank of Iraq, comprising 22 wooden boxes, a plastic container and a metal case. Those items had been seized by the former regime during its 1990 invasion of Kuwait and included silver coins, traveller's cheques, Kuwaiti postage stamps and old-issue bank notes in the amount of 2,121,166.230 Kuwaiti dinars. The aforementioned materials were handed over to the Kuwaiti side on 24 June 2009 by an Iraqi delegation that had visited Kuwait for that purpose;

(b) On 2 March 2009, Iraq handed over to the Kuwaiti side a total of 4,539 audio and videotape recordings belonging to the Kuwaiti Ministry of Information. The handover took place at the Kuwaiti Ministry of Information and was conducted by an Iraqi delegation that had visited Kuwait for that purpose, in the presence of Ambassador Gennady Tarasov, the Secretary-General's High-level Coordinator.

(*Signed*) Arshad **Tawfiq**
Ambassador
Head of Legal Department

Annex III

Letter dated 7 October 2009 from the Permanent Representative of Kuwait to the United Nations addressed to the High-level Coordinator

It is my pleasure to enclose herewith for your kind attention a letter from Dr. Ibrahim Majid Al Shaheen, the acting President of the National Committee for Missing Persons and Prisoner of War Affairs, responding to what was put forward by the Iraqi side in the latest meeting of the Technical Subcommittee concerning the steps taken to follow up the case of the Kuwaiti prisoners (see enclosure).

Furthermore, please include this response in your upcoming report to be submitted to the Security Council.

(*Signed*) Abdullah **Al Murad**

Enclosure

Letter dated 6 October from the Kuwaiti National Committee for Missing Persons and Prisoner of War Affairs addressed to Ambassador Gennady Tarasov, High-level Coordinator for the repatriation or return of all Kuwaiti and third-country nationals or their remains and the return of all Kuwaiti property, including archives, seized by Iraq

[Original: Arabic]

1. In reference to the meeting held with you on 6 October 2009 at the headquarters of the National Committee for Missing Persons and Prisoner of War Affairs, during which you were apprised of the results of the sixty-second session meeting of the Technical Subcommittee of the Tripartite Commission, we should like first of all to express to you the appreciation of the State of Kuwait for your role in supporting its efforts to ascertain the fate of Kuwaiti prisoners and third-country nationals and also to assure you that your efforts have played an effective part in any progress made in the work of the Tripartite Commission and the Technical Subcommittee. We trust that your support for this humanitarian issue of Kuwait will continue.

2. With regard to the outcomes of the sixty-second session of the Technical Subcommittee, we should like, in keeping with our desire to place before you all the facts that support your efforts, to offer an assessment of the stages of the work up to the recent Technical Subcommittee session, as follows:

(a) At the last (sixty-second) session of the Technical Subcommittee, we noted that there was a desire on the part of all the States members of the Subcommittee (the United States of America, the United Kingdom, the French Republic, the Kingdom of Saudi Arabia, Iraq and Kuwait) to work as a single team, a fact which in itself is a positive sign of the humanitarian thrust of the Technical Subcommittee's work;

(b) We wish to emphasize that the remarks made by the Iraqi delegation concerning the steps taken by the Government of Iraq with regard to follow-up of the question of Kuwaiti prisoners represents a positive sign with respect to the handling of that humanitarian issue. However, the real yardstick is the achievement of results consisting in the finding of the remains of Kuwaiti prisoners in Iraq. Achieving tangible results requires Government support in that direction at the highest level, which in turn implies the creation of a team comprising all the parties and authorities concerned, with responsibility for bringing the issue of Kuwaiti prisoners to a conclusion;

(c) We reaffirm that the maps and coordinates that have been submitted by the State of Kuwait and are believed to indicate locations in Iraq where there exist remains of Kuwaiti prisoners are the result of efforts on the part of Kuwait. The maps and coordinates are intended to serve as guides and are based on information received by Kuwait from numerous quarters. Our aim in providing them is to assist the Iraqi side in search operations at digging sites. There is no doubt that the work must not stop at mere searching or digging, for indeed we hope that the Iraqi authorities will make efforts suggestive of the

work of a detective or prosecutor, with a view to finding the sites where those prisoners were buried;

(d) With regard to the publication of pictures of the prisoners, we believe that it should not be limited to just one time but that they should be published periodically. We hope that the Ministry of Human Rights will prosecute this matter promptly, repeating the publication of the pictures in more than one of the various media (newspapers, television, radio) and continuing to remind the Iraqi people of this issue both at home and abroad, because that may help lead to information concerning Kuwaiti prisoners from persons who were detained in Iraq at the same time. We suggest that such announcements should also mention the International Committee of the Red Cross as one of the authorities to which such information can be submitted, either in Iraq or elsewhere;

(e) We should like to stress that finding those remains constitutes an obligation for the Iraqi side, and it should be borne in mind that the information, coordinates and maps provided by the State of Kuwait continue to be guiding elements to assist the Iraqi side in ultimately ascertaining the fate of the Kuwaiti prisoners and third-country nationals. Let us emphasize too that the search for information pertaining to the Kuwaiti prisoners requires initiative and follow-up, especially with respect to witnesses who have information concerning those prisoners. In the past, many bodies were brought from Iraq by follow-up with witnesses and information provided by Kuwait. We hope that the Iraqi side will follow the same method in order to locate the places where the prisoners were buried. We believe Iraqi action with respect to the Ramadi witness on the basis of a request by the State of Kuwait shows the validity of that approach for obtaining information and achieving positive results;

(f) While we believe it is necessary to encourage steps on the part of the Iraqi side in the hope of achieving positive results in ascertaining the fate of Kuwaiti prisoners, at the same time we emphasize its legal and humanitarian responsibility. We also stress that those steps must yield tangible positive results indicative of real cooperation in resolving the Kuwaiti prisoner issue.

3. In reaffirming Iraq's legal and humanitarian obligation towards the international community to resolve this issue, we also affirm the following:

(a) The need to have follow-up to the activity of the Iraqi side and evaluation thereof by the United Nations, based on the criterion of the results achieved, and not to settle for mere declarations about activities, so as to avoid any encouragement that might lead to a slackening of those activities;

(b) Our full appreciation for the role of the International Committee of the Red Cross in connection with Kuwait's humanitarian issue, while at the same time we stress the need for a continued role of the United Nations in monitoring the seriousness of both activities and results;

(c) The fact that implementation of Security Council resolution 1284 (1999) requires the return to Kuwait of all remains of Kuwaiti prisoners and third-country nationals.

4. We wish to express to you once again our appreciation of your active role in support of the Kuwaiti prisoner issue and wish you success in your humanitarian missions.

(*Signed*) Ibrahim Majed **al-Shaheen**
Acting Chairman of the Committee